IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7630 OF 2005

Shashikant Wanmali Panchal .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.Sandesh Patil for applicant
Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 19th December 2005.

P.C.

. Heard Mr.Patil for applicant and Mr.Mirza, A.P.P. for State.

2. Applicant has been arrested in connection with C.R.No.20 of 2005 registered with Dahanu police station for offences punishable under sections 326, 506, 504 and 34 I.P.C. Date of arrest is 29th September 2005. Applicant applied

for bail and the learned Sessions Judge firstly rejected an application made (Application No.42 of 2005) vide order 30th September 2005. Second application No.308 of 2005 has also been rejected on 25th October 2005.

3. In para 3 of the order passed by the sessions judge on 25th October 2005, it is observed that the offence with which applicant accused is charged is triable by Magistrate. However, learned Judge did not exercise the discretion in his favour, principally on the ground that between 1989 and 2005 apart from 14 non cognisable cases, the antecedents of applicant would show that he has several other cases pending against him. Details of these cases are set out in the earlier order passed by sessions court. In these circumstances and nothing having been demonstrated about the outcome of these cases, application of applicant came to be dismissed. This matter was placed

before me on two earlier occasions. Mr.Mirza pointed out that the observations of the learned sessions Judge are well founded because, there are criminal cases pending against this very applicant. Criminal record was pointed out and in these circumstances, according to Mr.Mirza, the apprehension expressed in the order of learned Sessions Judge is of substance and merit.

4. On the statement of Mr.Mirza, Mr.Patil sought time and stated that an affidavit would be placed incorporating details of the cases pending against applicant, nature of offence alleged therein and the present status thereof. So also it would be pointed out whether the applicant accused is enlarged on bail therein.

5. Affidavit is filed on 19th December 2005, affirmed by the son of applicant and it is stated therein that instructions have been given by the father. It is admitted therein that eight cases

are pending either in the sessions court or in the court of judicial magistrate, first class. Apart from this, there are no other cases pending and the applicant has been acquitted therein. Insofar as eight cases are concerned, it is pointed out that applicant is enlarged on bail therein.

6. Son of the applicant is present in court and he has instructed Mr.Patil to make further statement that applicant would abide by the condition that the applicant shall not reside in village Ganjad, Taluka Dahanu Dist.Thane during the pendency of the present case.

7. In the light of the affidavit and considering that the offences alleged are punishable under section 326, further custody of the applicant is not necessary. From the complaint, it appears that even against complainant, allegations have been made and this

is a case of cross complaint. In the light of the above, following order:-

i) Applicant shall be enlarged on bail in connection with C.R.No.20 of 2005 registered with Dahanu police station in the sum of Rs.10000/- with one surety in the like amount.

ii) Applicant shall report to Dahanu police station once a week between 5.00 p.m. and 7.00 p.m.

iii) Applicant shall not enter limits of village Ganjad, Taluka Dahanu, Dist.Nashik except for reporting to Dahanu police station once a week, till conclusion of trial.

iv) Bail is granted subject to condition that the applicant shall not,

directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application disposed of.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)